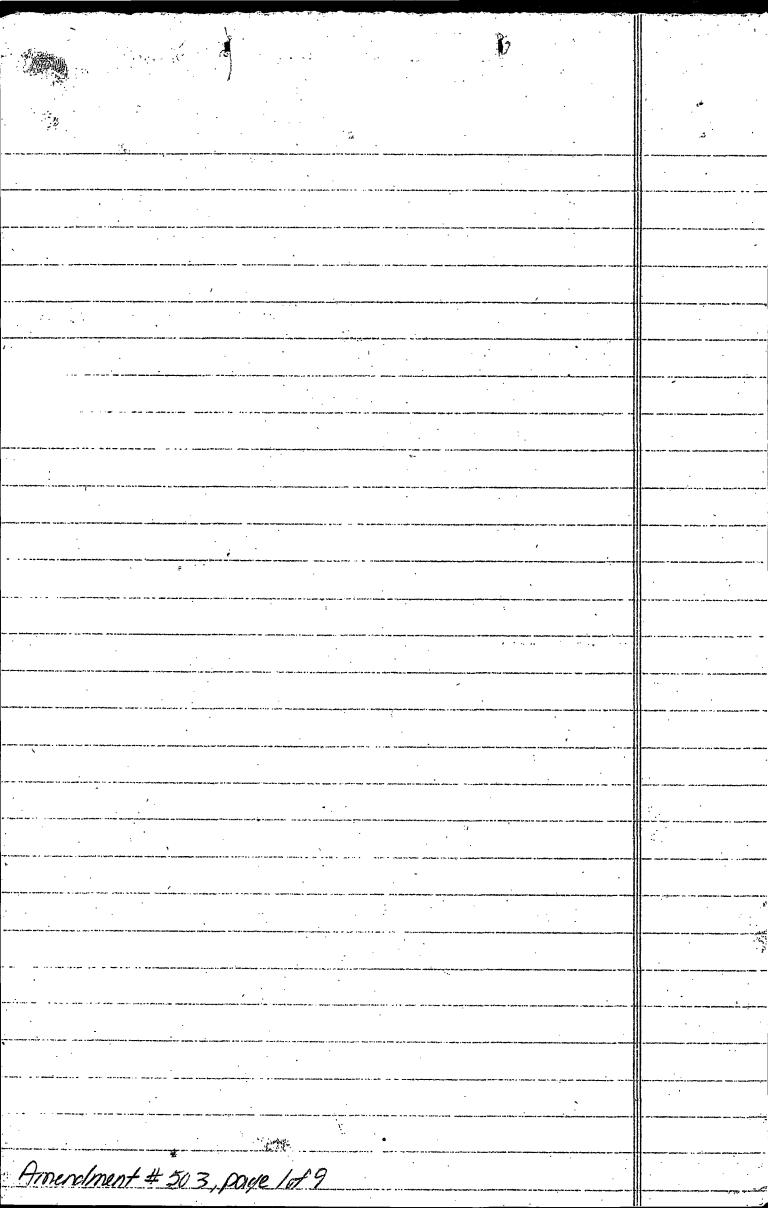
Report of Com on Indicat Nov 13. 18 asst see 4) Mr Fresident. - Your Committee on Judiciary and Judicial Department, & whom were referred Resolutions, Amendments, Proposals to Nos 3.9.10 (twice). 12 15. 21. 27. 30. 31. 42. 57. 65. 76. 85. 89. 156. 174.180.183.189.190.194.208.222.245.246. 249. 262. 263. 272. 274. 275. 291. 310. 348. 365. 367.386.399.404.426.442.455.457 beg leave to report, that they have considered the same and recommend that they be not adopted. So much of such proposed amendments, as your Committee have approved, are in a modified form contained in the Judiciary System which accompanies this report. We have the honor to submit the Judiciary system herewith presented and re = - commend its adoption as Article VI of the Constitution and the Judicial Department S. M. Wilson Chairman

Article VI

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in the Senate sitting as a Court of Impeachment, in a Supreme Court, Superior Courts, Justices of the Peace, and such inferior Courts as the Legislature may establish in any incorporated city or town, or City and Courty.

The Supreme Court shall consist of a Chief Justice and six SEC. 2. The Court may sit in departments and in bank, and shall Associate Justices. always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each depart-5 ment, and such assignment may be changed by him from time to time. Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered Each of the departments shall have the power to hear by the Chief Justice. and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of 11 12 Leve Justices shall be necessary to transact any business in either of the departments, except such as may be done at Chambers, and the concurrence 13 Tustices shall be necessary to pronounce a judgment. The Chief 14 Justice shall apportion the business to the departments, and may, in his dis-15 cretion, order any cause pending before the Court to be heard and decided 16 by the Court in bank. The order may be made before or after judgment 17 pronounced by a department; but where a cause has been allotted to one of 18 the departments, and a judgment pronounced thereon, the order must be made 19 within sixty days after such judgment, and concurred in by two Associate . 20 Justices, and if so made it shall have the effect to vacate and set aside the judgment. If the order be not made within the time above limited, the judg-22ment shall be final. No judgment by a department shall become final untr 23



the expiration of the period of sixty days aforesaid, unless approved by the Chief Justice, in writing, with the concurrence of two Associate Justices. 25 The Chief Justice may convene the Court in bank at any time, and shall be 26 the presiding Justice of the Court when so convened. The concurrence of 27 four Justices present at the argument shall be necessary to pronounce a judg-28 ment in bank; but if four Justices, so present, do not concur in a judgment, 29then all the Justices qualified to sit in the cause shall hear the argument, and 30 a majority thereof; divided in opinion, the judgment or order appealed from shall stand affiuned In the determination of causes, all decisions of the Court in bank or in depart-33 ments shall be given in writing, and the grounds of the decision shall be stated. 34 The Chief Justice may sit in either department, and shall preside when so 35 sitting, but the Justices assigned to each department shall select one of their 36 number as presiding Justice. All sessions of the Court, whether in bank or 37in departments, shall be held at the Capital of the State. In case of the -38 absence of the Chief Justice from the place at which the Court is held, or 39 his inability to act, the Associate Justices shall select one of their own num-40 ber to perform the duties and exercise the powers of the Chief Justice during 41 such absence or inability to act. 42

The Chief Justice shall be appointed by the the advice and consent of the Senate, and shall hold office during good behavthe Associate Justices shall be elected by the qualified electors of the State at large, and the term of office shall be twelve years, from and after the first Monday of January next succeeding their election; provided, that the 5 six, Justices elected at the first election shall, at their first meeting, so classify 6 themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of 8 twelve years, and an entry of such classification shall be made in the minutes 9 of the Court in bank, signed by them, and a duplicate thereof shall be filed in 10 the office of the Secretary of State. If a vacancy occur in the office of Asse 11 ciate, Justice, the Governor shall appoint a person to hold the office until the 12 election and qualification of a Justice to fill the vacancy, which election shall 13 take place at the next succeeding general election, and the Justice so elected 14 shall hold the office for the remainder of the unexpired term.

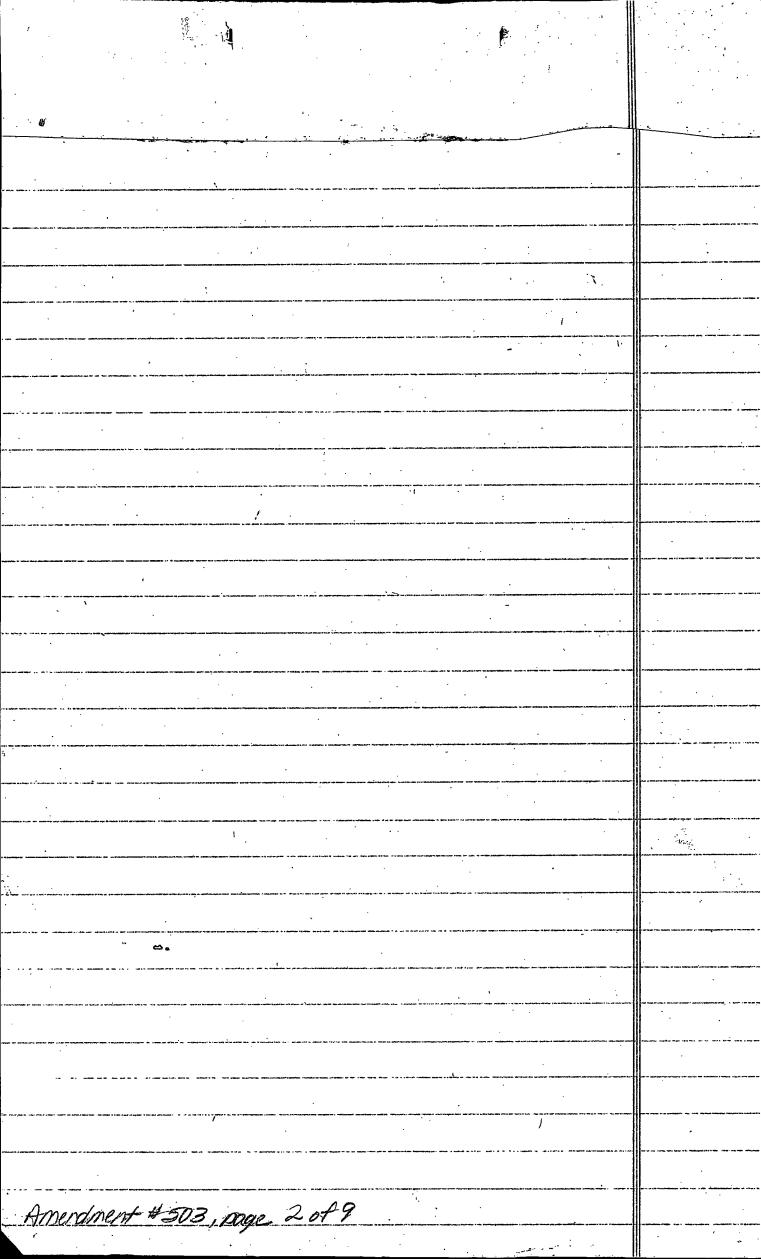
tion of the Associate Justices shall be at the first general election after the

adoption and ratification of this Constitution.

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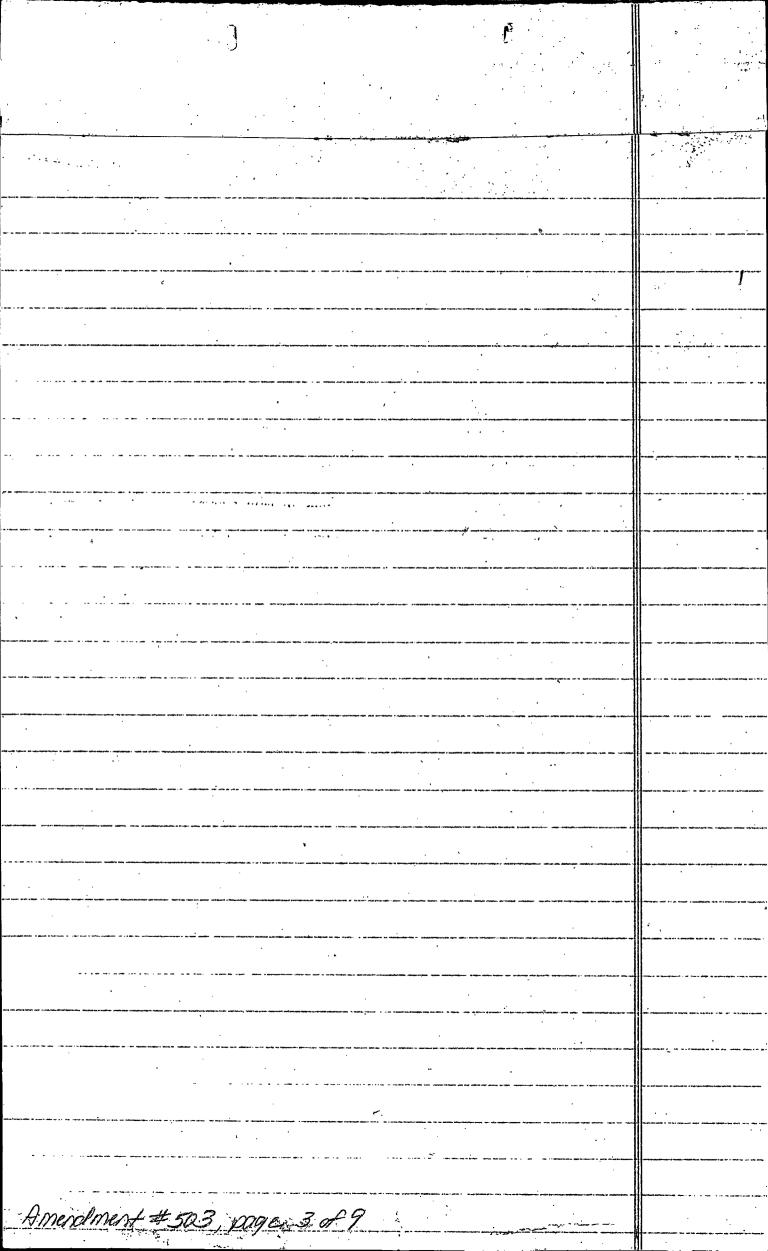
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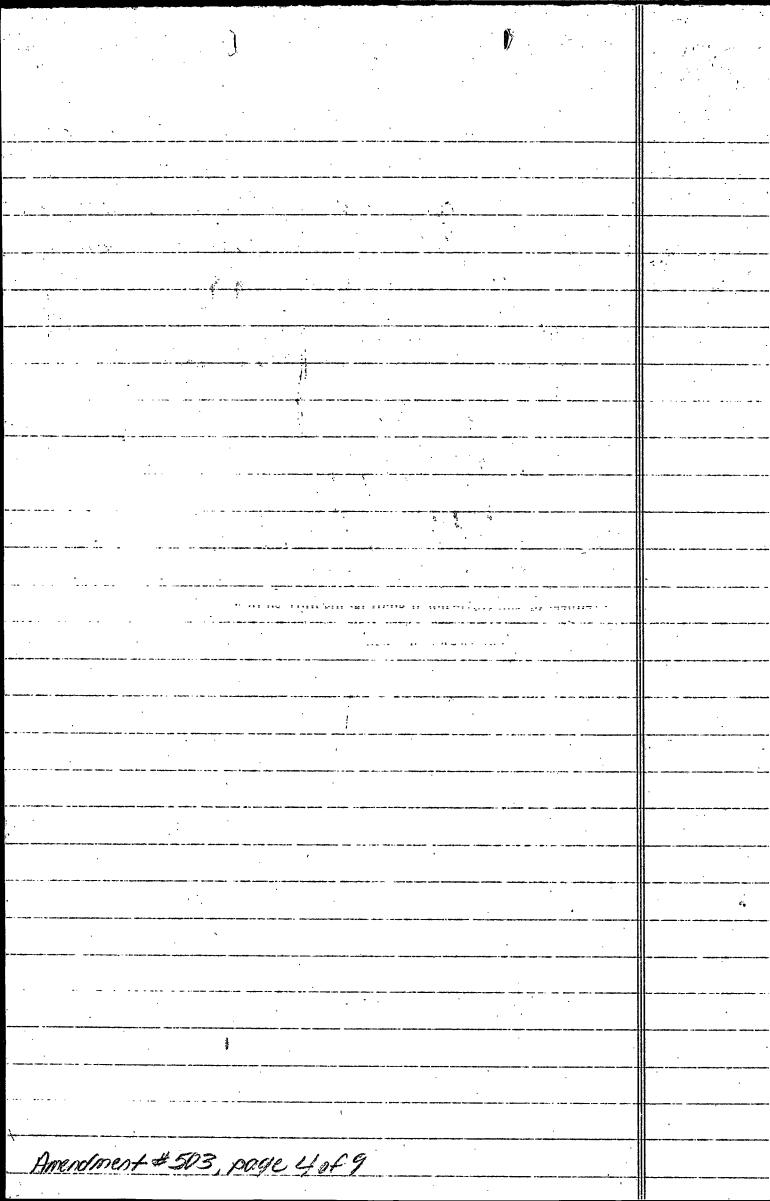
The Supreme Court shall have appellate jurisdiction in all cases in equity; also in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred criminal cases amounting to felony on questions of law alone. The Court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of habeas corpus to any part of the State, upon petition on behalf of 10 any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any Superior Court in the 12 13 State, or before any Judge thereof. 15 10 The Superior Courts shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest amounts to two hundred dollars, and in all criminal cases amounting to felony, and 6 cases of misdemeanor not otherwise provided for; also, in actions of forcible

7 entry and detainer, of proceedings in insolvency, of actions to prevent or abatea nuisance; of divorce and for annulment of marriage, and all such special cases and proceedings as are not otherwise provided for also ef-And said Courts shall have the power of naturalization, and 11 to issue papers therefor. They shall have appellate jurisdiction in such cases 12 arising in Justices' and other inferior Courts in their respective counties en as may be prescribed by law. Said Courts shall be 13 14 always open (legal holidays and non-judicial days excepted), and their original 15 jurisdiction shall extend to all parts of the State. Said Courts, and their Judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on petition by or on behalf of any person in actual cus-

tody, in their respective counties.



Sec 6. There shall be in each of the organized Counties or l ties of the State a Superior Court, for each of which at least one Judge shall be elected by the qualified slector of the Country or City and Country at the Jeneral State Election Election provided that in the County of San Francisco there shall be twelve Judges of the Superior Court, any one or more of whom may hold Court. There may be as many sessions of said Court, at the same time, as there are Judges thereof. The said Judges shall choose from their own number a presiding Judge, who may be removed at their pleasure. He shall distribute the business of the Court among the Judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the Superior Court, held by any one or more of the Judges of said Courts, respectively, shall be equally effectual as if all the Judges of said respective Courts presided 4 at such session. In each of the Counties of Sacrame The term of office of Judges of the Superior Courts shall be six years, from and after the first Monday of January next succeeding their election; provided, that the twelve Judges of the Superior Court, elected in the County of San Francisco at the first election held under this Constitution, shall, at their first meeting, so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the Court, signed by them, and a duplicate thereof filed in the office of the Secretary of State. The first election of Judges of the Superior Courts shall take place at the first general election held after the adoption and ratification of this Constitu-If a vacancy occur in the office of Judge of a Superior Court the Governor shall appoint a person to hold the office until the election and qualification of a Judge to fill the vacancy, which election shall take place at the next succeeding general election, and the Judge so elected shall hold office for the remainder of the unexpired term.



See I In any County or City and County, other than the City and Country of Jan France in which there shall be more than one Judg of the Inperior Court, the Judges of on Court may hold as many sessions of said Court at the same time as there are Judges thereof, and shall apportion the business among themselves as Equally as may be

A Judge of any Superior Court may hold a Superior Court in

any county, at the request of a Judge of the Superior Court thereof, and upon

the request of the Governor it shall be his duty so to do.

The Legislature shall have no power to grant leave of absence

to any judicial officer; and -any such officer who shall absent himself from

the State for more than thirty consecutive days shall be deemed to have for-

feited his office. The Legislature of the State may at any time, two-thirds of the members of the Senate and two-thirds of the members of the Assembly

voting therefor, increase or diminish the number of Judges of the Superior or City and Country
Court in any country in the State; provided, that no such reduction shall

affect any Judge who has been elected.

See 10. Justices of the Supreme Court, and Judges of the Superior

2 Courts, may be removed by concurrent resolution of both Houses of the

Legislature & two-third of all-the members of the Assembly and

all the members elected to the Senate consur therein. All other judicial

officers, except Justices of the Peace, may be removed by the Senate on the

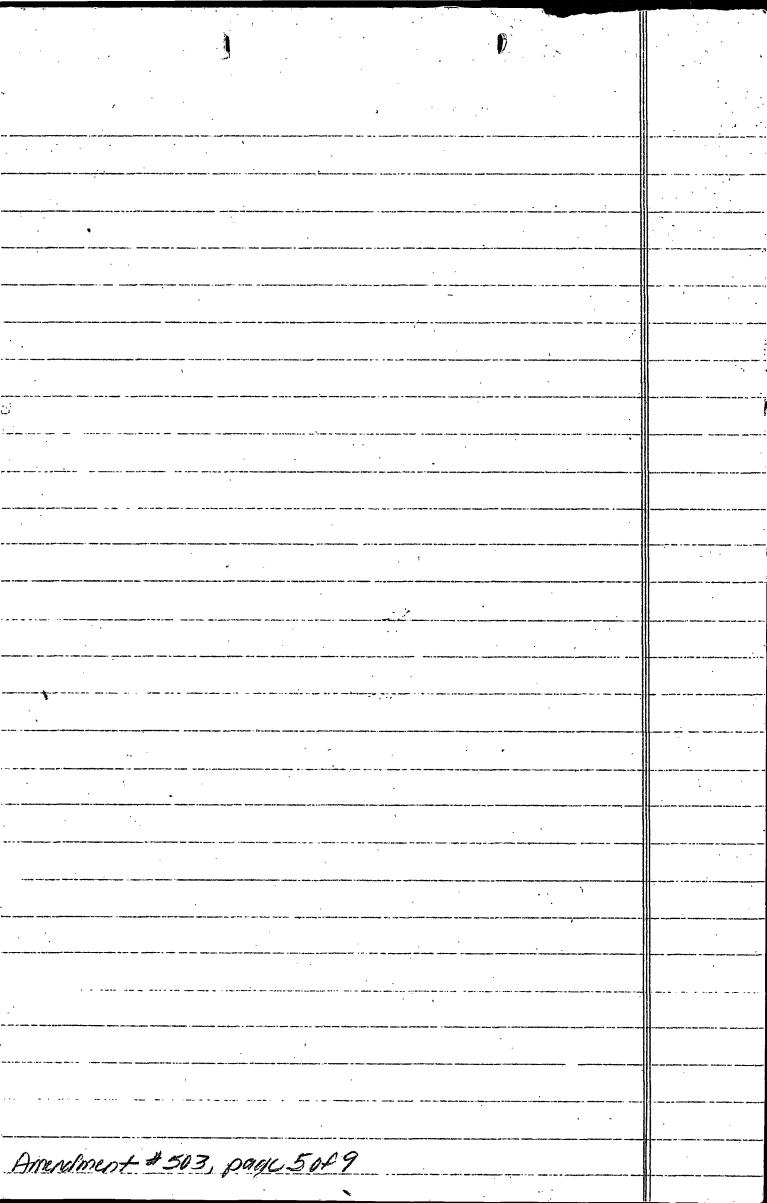
recommendation of the Governor, but no removal shall be made by virtue of

this section, unless the cause thereof be entered on the Journal, or unless the

party complained of has been served with a copy of the complaint against

him, and shall have had an opportunity of being heard in his defense.

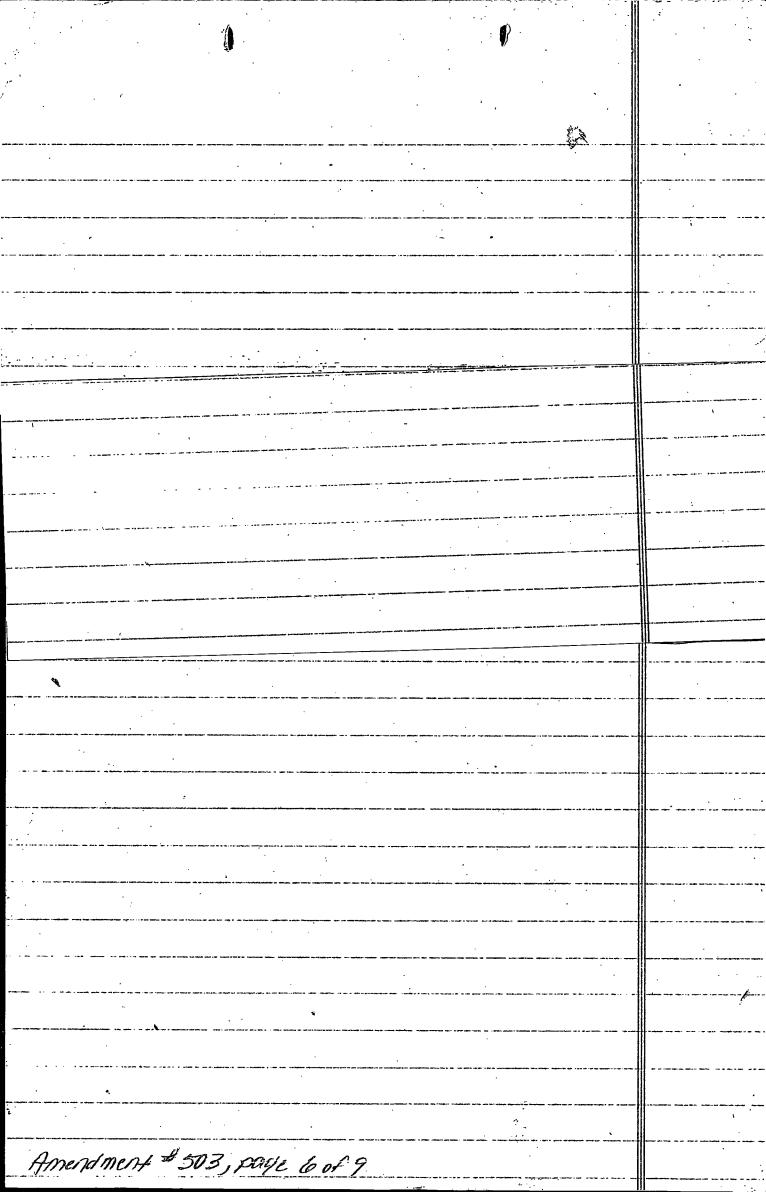
question of removal, the ayes and noes shall be entered on the Journal.



SEC. 16. The Legislature shall provide for the speedy publication of

such opinions of the Supreme Court as it may deem expedient, and all opinions

shall be free for publication by any person.



Sex 17. The Justices of the Supreme Court, and Judges of the Superior Courts shall severally, at stated times during their continuance in office, receive from the State Treasury for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected. During the term of the first Judges elected under this Constitution the an = mual salaries of the Justices of the Supreme Court shall be six thousand dollars each. The Superior Judges shall be divided into Jour classes; those of the City and County of San Francisco and of the Counties of Glameda, San Joaquin, Los Ongel= es, Santa Clara, Sacramento and Sonoma shall constitute the first Class and shall each receive an annual salary of five thousand dollars pay = able quarterly; those of the Counties of Butte, El Dorado, Gmador, Colusi, Contra Costa, Hum = boldt, Mendocino, Monterey, Napa, Merada, Hac= er, Santa Cruz, Solano, Tulare, Yolo, Kern, Yuba. and San Bornardino shall constitute the second class and shall receive an annual salary of four thousand dollars each, payable quarterly; those of the Counties of Calaveras, tresno, Kerney Lake, Marin, Merced, Humas, San Benito, San Diego; San Luis Obispo, San Mateo, Santa Barbara, Sierra, Shasta, Siskiyon, Stanislaus, Sutter, Thama, Tuolumne and Ventura shall

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constitute the third class and receive an annu alary of Three thousand dollars each, payable quarterly, and those of all other Counties of the State not above enumerated shall constitute the fourth class and seceive an annual sal of Two thousand dollars each, payable quar-Sec. 18. The Justices of the Supreme Court and the Judges of the Superior Courty shall be ineligible to any other office than a judicial office during the term for which they shall have been elected. SEC. 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law. SEC. 26. The style of all process shall be "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority. The Justices shall appoint a Reporter of the decisions of the Supreme Court, who shall hold his office and be removable at their pleasure. He shall receive an annual salary of twenty-five hundred dollars, payable quarterly. SEC. 22. The Judges and Justices of the Peace shall not practice law in any Court of the State during their continuance in office. SEC. 23. A grand jury shall be composed of thirteen jurors, and a concurrence of eight shall be necessary to the making of a presentment or the finding of an indictment. Sec 24. No one shall be eligible to the Office of Justice of the Supreme Court, unless he be at least thirty-five years of age, an shall have been admitted to practice before the Supreme Pourt of the State; nd no one shall be eligible to the Office of Judge of a Superior unless he be at least thirty years of age and shall have admitted to practice before the Supreme Court of the State.

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